

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

CG Docket No. 02-278

**COMMENTS OF CONVERGYS CORPORATION REGARDING THE
COMMISSION'S NOTICE OF PROPOSED RULEMAKING TO AMEND
THE RULES AND REGULATIONS IMPLEMENTING THE TELEPHONE
CONSUMER PROTECTION ACT OF 1991**

I. Introduction

Convergys Corporation, a member of the S&P 500 and the Forbes' Platinum 400, provides award-winning billing and customer care products and services to leading companies in telecommunications, cable and broadband, technology, financial services and next-generation services in more than 30 countries around the world.

The company also offers integrated, outsourced, employee care services to leading companies across a broad range of industries. Convergys develops relationships between its clients and their customers, through the use of world-class resources, software, and expertise. Each day, Convergys software produces more than 1.5 million individual bills, supporting more than 100 million subscribers. At the same time, the company's customer service professionals initiate and receive more than 1.2 million separate customer interactions via our multi-channel contact centers, including live agent and Web-based communications.

Headquartered in Cincinnati, Ohio, USA, Convergys employs nearly 44,000 people in our integrated contact centers, data centers and other offices in the United States, Europe, Asia/Pacific, Canada, Latin America

and Israel.

Convergys serves as a virtual extension of its clients' businesses, providing them with innovative, billing and customer management programs that optimize their customer relationships for a competitive advantage. Convergys' world-class billing and customer care software is available to clients in a licensed, build-operate-transfer (BOT) or outsourced arrangement. Our component-based, three-tiered family of next-generation billing software solutions features carrier-grade application modules, application suites, and complete end-to-end products for the following industries:

- Wireless
- Wireline
- Cable/Broadband/DBS
- xSPs and Next-Generation Service Providers
- IP/Content
- Financial Services.

Additionally, we offer comprehensive customer care and contact center services, including:

- Customer acquisition and retention
- Web-enabled customer service
- Employee care services
- Technical support
- Market research and customer value management
- Database marketing services
- Interactive customer services.

We are writing to offer comments regarding the proposed revisions to the rules and regulations implementing the Telephone Consumer Protection Act of 1991 (TCPA).

The vast majority of the company's customer interactions are in the form of inbound calls and electronic transmissions from consumers. However,

a portion of our revenues are dependent on what would be considered telemarketing activities. We hold ourselves to the highest of standards within this industry and strive at all times to maintain a customer service focus. The stability and growth of this piece of our business is critically dependent upon the continued viability of telemarketing and the ability to conduct business in a manner that is cost-efficient and revenue producing.

We support the efforts of the FCC to update the rules and regulations implementing the TCPA in response to technological advances within the industry. Convergys supports an approach that addresses the concerns of regulators and/or consumers and is reasonably balanced with the need for companies to engage in sales transactions with potential, existing and prior customers. It is important to note that imposition of new regulatory restrictions that burden the ability of companies such as Convergys to effectively and cost efficiently conduct these activities would have a negative economic impact on the industry and importantly, the customers we serve.

Convergys is a member of the Direct Marketing Association, the Electronic Retailing Association, and the American Teleservices Association. The company has been highly involved with each organization for a number of years and collaborated with each on the development of industry standard practices. As a member in such organizations, Convergys supports the comments that these organizations will file on these matters with the Commission.

We are concerned that well-intentioned attempts to tighten regulations will not effectively curtail those few individuals and companies that use abusive and deceptive telemarketing practices. Instead, the amendments will penalize the business practices of reputable companies that already

strive to strike a balance between consumer concerns and the ability to serve our customers. Further mandates and restrictions will have a significant impact on Convergys' ability to continue to conduct telemarketing programs.

Clearly, the scope of the FCC's proposed changes are far-reaching and would result in higher costs for companies engaged in telemarketing activities. As a consequence, companies may be forced to pass along some of the costs to its customers and ultimately the consumer.

In particular, Convergys comments on the following proposals:

(1) Creation of a National Do-Not-Call Registry

The industry has been successful in its attempts to provide consumers with a one-stop service to remove their names from all calling lists. The Direct Marketing Association's (DMA) Telephone Preference Service (TPS), for example, offers a simple, free nationwide DNC system. In addition, many states already have moved to address any perceived issues in the existing DNC framework. As of this writing, at least twenty-seven (27) states have enacted DNC list statutes that apply to both intrastate and interstate calls to consumers in those states. Several other states have introduced, or plan to introduce, legislation calling for the creation of state-maintained lists (or mandating the use of the DMA's TPS).

Convergys has complied with applicable federal and state telemarketing laws and honors consumer DNC requests. Convergys believes that the TPS, coupled with the requirement that sellers honor specific DNC requests, provides an effective method for consumers to minimize unwanted telephone solicitation calls.

Convergys also is cognizant of the Commission's concerns regarding the current DNC enforcement mechanisms. We stand ready to further discuss the maintenance, funding and administration of a national DNC list to address any concerns.

As the FCC is aware, the Federal Trade Commission (FTC) has recently requested comments on the establishment of a national DNC list. In the event that the FTC determines a national DNC list is necessary, we urge the FCC and FTC to work cooperatively to develop a single list that supplants all other established efforts. Compliance with a FTC national DNC list, a similar FCC effort, *and* all other related initiatives would unduly burden those that use the telephone as a legitimate channel of communication with potential and existing customers. Without preemption from existing state statutes, the administrative costs – as well as consumer confusion – associated with attempting to comply this myriad of federal and state requirements would be significant.

(2) Predictive Dialers

Many companies use predictive dialing devices to make operation of their business more cost effective by increasing productivity. Increased efficiency in marketing products and services through the use of predictive dialers helps to reduce costs and ultimately, save consumers money. Any regulation that would render this technology unusable would result in significant cost increases to business and, by extension, the consumer.

As a member of the DMA, Convergys abides by and maintains a programmed abandonment rate (the rate at which calls are disconnected prior to the caller initiating a conversation with the called person) of less than five percent, as DMA industry standards dictate. Convergys believes that telemarketers should use the lowest possible abandonment rate commensurate with effective marketing, and is further supportive of the DMA's recommendation that rates be as close as possible to zero. Frequently, and of our own accord, Convergys sets the abandonment rate at one percent.

Convergys acknowledges that the efficiencies and increased productivity achieved through the use of predictive dialers need to be balanced against consumer objections related to abandoned calls. As an alternative to banning the use of predictive dialing systems, or mandating a zero abandonment rate, Convergys believes that the newly determined standard should be based on the DMA guideline that advocates a rate as close as possible to zero.

Convergys believes that the proposed mandatory zero abandonment rate would have a significant economic impact on telemarketers and, in light of the widespread use of predictive dialers by entities not subject to federal regulation, would do little to reduce the number of abandoned calls received by consumers. Accordingly, a mandatory zero abandonment rate should not be imposed.

To the extent that the Commission seeks instead to mandate an abandonment rate above zero, consideration must be given to the time period during which the abandonment rate will be measured and the definition of what constitutes an abandoned call. It is foreseeable that this reduction would translate into an increase in cost of services and

negatively impact consumers.

(3) Answering Machine Detection

Since 1992, Answering Machine Detection (AMD) has become an increasingly essential tool to maintaining the cost effectiveness of outbound telemarketing. Anywhere from fifty percent (50%) to eighty percent (80%) of all dials made by a predictive dialer are now identified through AMD. If companies are unable to distinguish calls answered by machine from calls answered by customers, the technology currently used to create efficiencies would be rendered ineffective. In addition, the time spent manually responding to machines would vastly lower employee productivity and decrease overall industry viability. Elimination of the use of AMD would cause Convergys to re-evaluate its participation in the industry.

Convergys remains committed to high standards related to predictive dialers, as indicated above, and answering machine detection. In fact, our AMD detection runs at a better than ninety-eight percent (98%) rate of effectiveness. The one or two percent of calls that are not classified as an AMD are passed immediately to an associate to avoid 'dead air' issues for our customers. Less than one percent of all connected calls are incorrectly classified as AMD. Given this low rate, prohibiting or restricting companies from using answering machine detection would not resolve concerns the Commission may have about 'dead air'. It would, however, unduly burden companies that seek to effectively compete in this industry and put quality jobs at risk.

(4) Right of Action

The Commission requested comments on a consumer's right to file suit. Congress, in the language of the TCPA, left this decision to each

individual state. The courts and legislatures in each state have acted and continue to act on this issue. Efforts now by the FCC to override the intent of Congress may be neither appropriate nor productive.

Summary Statement

Convergys Corporation respects the time the Commission has invested in studying these issues and its commitment to balancing consumer protections with the need for companies like Convergys to effectively support our clients. We urge the Commission to consider the potentially negative economic impact that these proposals will have on the company and the communities in which we have facilities, as well as the economy as a whole.

Thank you for your consideration. We remain available to assist the Commission on these matters.

Respectfully Submitted:

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